

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

08-cr-87-bbc

v.

JARRELL A. MURRAY,

Defendant.

Defendant Jarrell A Murray has asked to have the transcripts of his plea hearing and sentencing in this case prepared at government expense. In support of his request, he has advised the court that he will be filing a post conviction motion under 28 U.S.C. § 2255, alleging ineffective assistance of counsel with respect to his criminal history and his criminal history classification. Defendant is entitled to have these transcripts prepared if he can persuade the trial judge that his motion is not frivolous *and* that the transcripts are necessary to the motion. 28 U.S.C. § 753(f).

At the present time, I cannot make the necessary finding that defendant's planned post conviction motion would not be frivolous. Defendant has said only that he wishes to allege ineffectiveness of counsel; he has not provided any reasons for thinking that his

counsel was ineffective. For example, if he thinks that counsel was ineffective in not challenging his criminal history score, he should be able to identify some prior conviction that he thinks should not be included in the calculation of that score or, if he thinks he should not have been classified as a career offender, he should explain which of his two prior convictions for crimes of violence or controlled substances should not have been taken into consideration. A mere allegation of ineffectiveness does not demonstrate that there is any merit to defendant's post conviction motion.

ORDER

Defendant Jarrell A. Murray's motion for the preparation of transcripts at government expense is DENIED without prejudice for his failure to show that he has a non-frivolous motion he wishes to bring and that the transcripts are necessary to support his motion.

Entered this 8th day of April, 2010.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge